

STATE OF MICHIGAN
COURT OF APPEALS

MAN LEWIS, JR.,

Petitioner-Appellant,

v

ATTORNEY GENERAL,

Respondent-Appellee.

UNPUBLISHED

January 6, 1998

No. 198530

Saginaw Circuit Court

LC No. 96-014235 AP

Before: MacKenzie, P.J., and Hood and Hoekstra, JJ.

MEMORANDUM.

Petitioner appeals as of right from an order dismissing his criminal complaint pursuant to MCR 2.102(D) and (E). We affirm.

Petitioner correctly points out that the clerk erroneously relied on MCR 2.102 to dismiss his complaint. MCR 2.102 applies only to civil actions. MCR 2.101; MCR 6.001(D); 1 Martin, Dean & Webster, Michigan Court Rules Practice (3d ed), p 58. Nevertheless, reversal is unwarranted. The circuit court lacked jurisdiction to entertain the complaint because the complaint was not filed with the Saginaw County Prosecutor's written approval endorsed on the complaint, MCR 6.101(C); MCL 764.1; MSA 28.860(1); *People v Stackpoole*, 144 Mich App 291, 300-301; 375 NW2d 419 (1985), and because the complaint was not accompanied by a security for costs filed with the circuit court as is required when the complaint is brought by a private citizen, MCR 6.101(C); *People v Herrick*, 216 Mich App 594, 597 n 1; 550 NW2d 541 (1996); *People v Joker*, 63 Mich App 421, 428-430; 234 NW2d 550 (1975). Defendant's status as an indigent does not excuse him from the obligation of filing the security. *Joker, supra*.

Affirmed.

/s/ Barbara B. MacKenzie

/s/ Harold Hood

/s/ Joel P. Hoekstra